

JS 44 (Rev. 06/17)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

NICHOLAS PROTO

(b) County of Residence of First Listed Plaintiff Monmouth  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Stephen N. Dratch, FRANBLAU DRATCH 354 Eisenhower Parkway  
Livingston, NJ 07039 (973) 992-3700

## DEFENDANTS

BARNETT OUTDOORS, LLC

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

William J. Smith, DICKIE McCAMEY & CHILCOTE, P.C., 41 S.  
Haddon Ave, Suite 5 Haddonfield, NJ 08033 (856) 354-0192

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question  
(U.S. Government Not a Party)
- ☒ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input checked="" type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. §§ 1332, 1441 and 1446

Brief description of cause:

Plaintiff alleges injury to finger from sporting good product

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER ESX-L-004548-18

DATE

July 24, 2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ William J. Smith

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

NICHOLAS PROTO,

Plaintiff,

**V.**

BARNETT OUTDOORS, LLC,

Defendant.

Civil Action No.:

(From ESX-L-004548-18)

**NOTICE OF REMOVAL**  
(28 U.S.C. §§ 1332, 1441 and 1446)

## **DEFENDANT'S NOTICE OF REMOVAL**

Defendant, BARNETT OUTDOORS, LLC (hereinafter “Defendant”), by and through its undersigned counsel, hereby removes this action from the Superior Court of New Jersey, Law Division, Essex County, to this, the United States District Court for the District of New Jersey, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Rule 81(c) of the Federal Rules of Civil Procedure, on the following grounds:

1. On or about July 11, 2018, NICHOLAS PROTO (“Plaintiff”) filed a Complaint against Defendant in the Superior Court of New Jersey, Law Division, Essex County, captioned NICHOLAS PROTO, Plaintiff v. BARNETT OUTDOORS, LLC, Defendant, Docket Number ESX-L-004548-18.

2. Jurisdiction over this case is appropriate in this Court pursuant to 28 U.S.C. § 1332(a). Specifically, this Court has jurisdiction over this action because there is the requisite diversity of citizenship between the Plaintiff and Defendant, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

3. Plaintiff NICHOLAS PROTO is a New Jersey resident and, on information and belief, a New Jersey citizen for jurisdictional purposes. (Complaint, attached as Exhibit A).

4. Defendant Barnett Outdoors, LLC, however, is not a New Jersey citizen. Barnett Outdoors, LLC is a corporation with a principal place of business at 955 E. Live Oak Street, Tarpon Springs, FL 34689. Barnett Outdoors is a single-member limited liability company organized under the laws of the State of Florida. The sole member of Barnett Outdoors is Wildgame Innovations, LLC. Wildgame Innovations, LLC is a single-member limited liability company organized under the laws of the State of Louisiana. The sole member of Wildgame Innovations, LLC is Synergy Outdoors, LLC. Synergy Outdoors, LLC is a single-member limited liability company organized under the laws of the State of Louisiana. The sole member of Synergy Outdoors, LLC is Plano Molding Company, LLC. Plano Molding Company, LLC is a single-member limited liability company organized under the laws of the State of Delaware. The sole member of Plano Molding Company, LLC is Plano Holding LLC. Plano Holding LLC is a single-member limited liability company organized under the laws of the State of Delaware. The sole member of Plano Holding LLC is Plano Synergy Holding Inc. Plano Synergy Holding Inc. is a Delaware corporation with its principal place of business in Illinois. Thus, for the purpose of diversity jurisdiction, Barnett Outdoors is a citizen of Delaware and Illinois. 28 U.S.C. § 1332 (c)(1).

5. Complete diversity of citizenship exists because Plaintiff is not a citizen of the same state as Defendant. 28 U.S.C. § 1332(a).

6. Although Defendant denies that Plaintiffs are entitled to any monetary relief whatsoever, Defendant submits that the amount in controversy reasonably exceeds \$75,000.00, exclusive of interest and costs. *See Mehlenbacher v. Akzo Nobel Salt, Inc.*, 216 F.3d 291, 298 (2d Cir. 2000) (reasoning that the movant “has the burden of proving that it appears to a reasonable probability that the claim is in excess of the statutory jurisdictional amount.”).

7. Although Plaintiff’s Complaint does not specify a particular amount of damages sought, Plaintiff has stipulated that the amount of damages sought is in excess of \$75,000. (*See* Exhibit B, Stipulation signed by Plaintiff’s counsel).

8. Based on Plaintiff’s stipulation, there is now a legal certainty that the amount in controversy in this civil action exceeds \$75,000.00, exclusive of interest and costs. Therefore, this Court has jurisdiction over this case pursuant to 28 U.S.C. § 1332(a)(1).

9. In accordance with 28 U.S.C. § 1446(a), attached as Exhibit C, and filed with the Clerk of this Court, true and legible copies of all process, pleadings, orders and other papers on file with the Superior Court of New Jersey, Law Division, Essex County.

10. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b)(3) because it is filed within thirty (30) days of Defendant’s receipt of the Complaint (received July 11, 2018), as well as Plaintiff’s Stipulation (received July 18, 2018) indicating that the amount in controversy requirement is met in this case.

11. Venue of this removed action is proper under 28 U.S.C. § 1441(a), because this Court is the United States District Court for the district that includes Essex County, New Jersey, where the state-court action was pending.

12. Pursuant to 28 U.S.C. §1446(d), Defendant has provided written notice to Plaintiff and have filed a copy of this Notice of Removal with the Clerk of the Superior Court of New Jersey, Law Division, Essex County, Docket No. ESX-L-004548-18.

WHEREFORE, Defendant, by and through their undersigned counsel, respectfully notice the removal of the action now pending against it in Superior Court of New Jersey, Law Division, Essex County, Docket Number ESX-L-004548-18, to the United States District Court for the District of New Jersey.

Respectfully submitted,

**DICKIE, McCAMEY & CHILCOTE, P.C.**

By /s/ William J. Smith

William J. Smith, Esquire (NJ ID# 038571992)  
[wsmith@dmclaw.com](mailto:wsmith@dmclaw.com)  
41 South Haddon Avenue, Suite 5  
Haddonfield, NJ 08033-1800  
856-354-0192/888-811-7144

Attorneys for Defendant, BARNETT  
OUTDOORS, LLC

Dated: July 24, 2018

**CERTIFICATE OF SERVICE**

I certify that this day, July 24, 2018, I electronically filed the foregoing with the clerk's office CM/ECF system, which will send email notification to counsel of record. I further certify that I have this day served a true and correct copy of the foregoing by U.S. Mail with adequate postage thereon and addressed as follows:

Stephen A. Dratch  
FRANZBLAU DRATCH, P.C.  
Plaza One – 354 Eisenhower Pkwy  
P.O. Box 472  
Livingston, NJ 07039  
dratch@njcounsel.com

I further certify that on July 24, 2018, a copy of the Notice of Removal was also submitted to the Superior Court of New Jersey, Essex County, Civil Law Division.

**DICKIE, McCAMEY & CHILCOTE, P.C.**

By  \_\_\_\_\_

William J. Smith, Esquire (NJ ID# 038571992)  
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